

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

FILED

JUN 10 2005

UNITED STATES OF AMERICA,

Plaintiff,

**U.S. DISTRICT COURT
NORTHERN DISTRICT OF WEST VIRGINIA**

Criminal No. 1:05 CR 04

v.

DANIEL WILSON TESTERMAN,

Defendant.

**PROFFERED VOIR DIRE QUESTIONS BY
THE DEFENDANT, DANIEL WILSON TESTERMAN**

1. The charge in this case involves allegations that Mr. Testerman possessed child pornography. During this trial you will see some very disturbing images and moving pictures. Do any of you believe you could not be a fair and impartial juror, based upon the nature of this case?
2. Do you understand that the charges against Mr. Testerman is only an accusation?
3. Do you believe that because Mr. Testerman has been accused of a crime, he probably did something wrong?
4. Do you understand that Mr. Testerman is presumed innocent even though he has been charged with a crime?
5. Do you understand that the presumption of innocence stays with Mr. Testerman throughout the entire trial?
6. Do you understand that the United States of America, represented in this matter by Ms. Muncy, must prove Mr. Testerman guilty beyond a reasonable doubt?

7. Do any of you believe it is unfair that the United States of America must prove Mr. Testerman guilty beyond a reasonable doubt?

8. Do any of you believe that Mr. Testerman should have to prove he is innocent?

9. Do you understand that if the United States of America fails to prove that Mr. Testerman is guilty beyond a reasonable doubt, you must find him not guilty?

10. Do you understand that Mr. Testerman does not have to testify if he chooses not to?

11. Do you understand that if Mr. Testerman chooses not to testify, you must not, by any means, infer or conclude that he is guilty?

12. Do you believe if someone is innocent, they should take the witness stand and tell their side of the story and if they don't, they have probably done something wrong?

13. Do you understand that because a defendant does not call any witnesses, the United States of America must still prove him guilty beyond a reasonable doubt?

14. Have any of you heard anything about this case either through the media or some other source?

15. Do any of you own a hand gun?

16. Do any of you have a permit to carry a gun?

17. Have you, any member of your family, or a close friend, been the victim of a crime?

18. Have you, any member of your family, or a close friend, been charged with a crime?

19. Have you, any member of your family, or a close friend, been convicted of a crime?

20. Have you ever posted a bond for someone?

21. Have any of you served in the military?

22. Have any of you received training in the law?

23. Have any of you received training in law enforcement?

24. Have you, any member of your family or a close friend been subjected to any type of sexual or other abuse?

25. Do any of you own a computer?

26. Have any of you ever used a computer?

27. Do you know what a hard drive is?

28. Have any of you ever used the Internet? If yes, for what purpose?

29. Have any of you seen, what you believe to be, improper images on a computer?

30. Do any of you have specific training in computers or computer services?

31. Do any of you have any training in retrieving information from a computer's hard drive?

32. With regard to computers, do any of you know what an access date is?

33. With regard to computers, do any of you know what a creation date is?

34. With regard to computers, do any of you know what a modification date is?

35. With regard to computers, do any of you know what it means to download information?

36. Do any of you have any training in social work, psychology or counseling?

37. Have you, or a member of your family, been employed by a federal, state or county agency?

38. Do any of you have a college degree?

39. Do any of you have an advanced college degree such as a masters or doctorate?

40. Do any of you watch Court TV?

41. Do any of you know Sherry Muncy?
42. Has Ms. Muncy ever represented you or a member of your family?
43. Have any of you previously served on a jury in a criminal case?
44. Have any of you served on a jury in a civil case?
45. Do any of you consume alcoholic beverages?
46. Do any members of your family, or your close friends, consume alcoholic beverages?
47. Do any of you have children? If so, how many; what are their ages?
48. Are any of you employed? Where? How long?
49. Are any of you members of civic organizations or social clubs?
50. Do any of you attend church?
51. Do any of you know:

Thelma Trent

Walter Trent

Donald Ball

Bobby Bryant

Sandra Blankenship

Reverend Ralph J. Blankenship

John Black

Melinda Cash

Kenneth L. Lavictoire

Mike Kocher

Amy Workman

Amber Workman

Alice Testerman

Samuel Testerman

Elbert Testerman, Jr.

Jesse Testerman

Melissa Testerman

Michael D. Kelly

Bryan D. Backus

Mathew Doyle

52. Do any of you believe that the testimony of a police officer or FBI agent should be given greater weight, just because the person testifying is a police officer?

53. Do any of you believe that the testimony of a victim of a crime should be given greater weight, just because he or she is a victim of a crime?

54. Can all of you follow the instructions of law given to you by the judge, even though you may not agree with the law as read to you?

55. Do all of you understand that any verdict you reach must be unanimous?

56. Do you believe that after you have considered all the evidence and the instructions given to you by the judge and you have reached a verdict, you could maintain your position even though it may be different from the decision reached by some or all of your fellow jurors?

57. Do any of you know of any reason why you should not be a juror in this case?


58. If you or a family member were on trial instead of Mr. Testerman, would you want a person like yourself to be sitting on the jury?



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CERTIFICATE OF SERVICE

The undersigned counsel for Defendant, **DANIEL WILSON TESTERMAN**, hereby certifies that he served the foregoing **PROFFERED VOIR DIRE QUESTIONS BY THE DEFENDANT, DANIEL WILSON TESTERMAN**, upon the Plaintiff, **UNITED STATES OF AMERICA**, by depositing a true copy thereof in the United States mail, postage prepaid, addressed to Sherry L. Muncy, Assistant United States Attorney, Clarksburg Federal Center, 320 West Pike Street, Suite 300, Clarksburg, West Virginia, 26301-27101 on this 10 day of June, 2005.



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